

whichever is less. For real property located within the confines of a federally recognized Indian reservation and which is owned by an FmHA or its successor agency under Public Law 103–354 borrower who is a member of the tribe with jurisdiction over the reservation, the Government's bid will be the greater of the fair market value or the FmHA or its successor agency under Public Law 103–354 debt against the property, unless FmHA or its successor agency under Public Law 103–354 determines that, because of the presence of hazardous substances on the property, it is not in the best interest of the Government to bid such amount, in which case there may be a deduction from the bid for the costs for hazardous material assessment and/or mitigation. For FP loans, except as modified by paragraph (f)(7)(ii) of this section, the Government's bid will be the amount of FmHA or its successor agency under Public Law 103–354's gross investment or the amount determined by use of exhibit G–1 of this subpart, whichever is less. When the foreclosure sale is imminent, the State Director must request the servicing official to submit a current appraisal (in existing condition) as a basis for determining the Government's bid. Except for MFH properties, if an FmHA or its successor agency under Public Law 103–354 appraiser is not available, the State Director may authorize an appraisal to be obtained by contract from a source outside FmHA or its successor agency under Public Law 103–354 in accordance with FmHA or its successor agency under Public Law 103–354 Instruction 2024–A (available in any FmHA or its successor agency under Public Law 103–354 office). For MFH properties, prior approval of the Assistant Administrator, Housing, is necessary to procure an outside appraisal.

(7) *Bidding*. The State Director will designate an individual to bid on behalf of the Government unless judicial proceedings or State nonjudicial foreclosure law provides for someone other than an FmHA or its successor agency under Public Law 103–354 employee to enter the Government's bid. When the State Director determines attendance of an FmHA or its successor agency under Public Law 103–354 employee at

the sale might pose physical danger, a written bid may be submitted to the Marshal, Sheriff, or other party in charge of holding the sale. The Government's bid will be entered when no other party makes a bid or when the last bid will result in the property being sold for less than the bid authorized in paragraph (f)(6) of this section.

(i) When FmHA or its successor agency under Public Law 103–354 is the senior lienholder, only one bid will be entered, and that will be for the amount authorized by the State Director.

(ii) When FmHA or its successor agency under Public Law 103–354 is not the senior lienholder *and* OGC advises that the borrower has no redemption rights or if a deficiency judgment will be obtained, the State Director may authorize the person who will bid for the Government to make incremental bids in competition with other bidders. If incremental bidding is desired, the State Director's instructions to the bidder will state the initial bid, bidding increments, and the maximum bid.

(g) *Reports on sale and finalizing foreclosure*. Immediately after a foreclosure sale at which the State Director has designated a person to bid on behalf of the Government, the servicing official will furnish the State Director a report on the sale. The State Director will forward a copy of this report to OGC and, for MFH loans, to the National Office. Based on OGC's instructions, a State supplement will provide a detailed outline of actions necessary to complete the foreclosure.

[50 FR 23904, June 7, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1955.15, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§§ 1955.16–1955.17 [Reserved]**

**§ 1955.18 Actions required after acquisition of property.**

The approval official may employ the services of local designated attorneys, of a case by case basis, to process all legal procedures necessary to clear the title of foreclosure properties. Such attorneys shall be compensated at not more than their usual and customary charges for such work. Contracting for

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such attorneys shall be accomplished pursuant to the Federal acquisition regulations and related procurement regulations and guidance.

(a)–(d) [Reserved]

(e) *Credit to the borrower's account or foreclosure judgment account*—(1) *For SFH accounts.* When FmHA or its successor agency under Public Law 103–354 acquired the property, the account will be satisfied unless:

(i) In a voluntary conveyance case where the debt exceeds the market value of the property and the borrower is *not* released from liability, in which case the account credit will be the market value (less outstanding liens if any); or

(ii) In a foreclosure where the bid is less than the account balance and a deficiency judgment will be sought for the difference, in which case the account credit will be the amount of FmHA or its successor agency under Public Law 103–354's bid.

(2) *For all types of accounts other than SFH.* When FmHA or its successor agency under Public Law 103–354 acquired the property, the account credit will be as follows:

(i) In a voluntary conveyance case:

(A) Where the market value of the property equals or exceeds the debt or where the borrower is released from liability for any difference, the account will be satisfied.

(B) Where the debt exceeds the market value of the property and the borrower is *not* released from liability, the account credit will be the market value (less outstanding liens, if any).

(ii) In a foreclosure, the account credit will be the amount of FmHA or its successor agency under Public Law 103–354's bid *except* when incremental bidding as provided for in §1955.15(f)(7)(ii) of this subpart was used, in which case the account credit will be the maximum bid that was authorized by the State Director.

(3) *For all types of accounts when FmHA or its successor agency under Public Law 103–354 did not acquire the property.* The sale proceeds will be handled in accordance with applicable State laws with the advice and assistance of OGC, including remittance of funds, application of the borrower's account credit, and disbursement of any funds

in excess of the amount due FmHA or its successor agency under Public Law 103–354.

(4) *In cases where FmHA or its successor agency under Public Law 103–354 acquired security property by means other than voluntary conveyance or foreclosure.* In these cases, such as conveyance by a bankruptcy trustee or by Court Order, the account credit will be as follows:

(i) If the market value of the acquired property equals or exceeds the debt, the account will be satisfied.

(ii) If the debt exceeds the market value of the acquired property, the account credit will be the market value.

(f)–(l) [Reserved]

[50 FR 23904, June 7, 1985, as amended at 52 FR 41957, Nov. 2, 1987; 53 FR 27827, July 25, 1988; 53 FR 35764 Sept. 14, 1988; 55 FR 35295, Aug. 29, 1990; 56 FR 10147, Mar. 11, 1991; 56 FR 29402, June 27, 1991; 58 FR 38927, July 21, 1993; 58 FR 68725, Dec. 29, 1993; 60 FR 34455, July 3, 1995]

**§ 1955.19 [Reserved]**

**§ 1955.20 Acquisition of chattel property.**

Every effort will be made to avoid acquiring chattel property by having the borrower or FmHA or its successor agency under Public Law 103–354 liquidate the property according to Subpart A of Part 1962 of this chapter and apply the proceeds to the borrower's account(s). Methods of acquisition authorized are:

(a) *Purchase at the following types of sale:* (1) Execution sale conducted by the U.S. Marshal, sheriff or other party acting under Court order to satisfy judgment liens.

(2) FmHA or its successor agency under Public Law 103–354 foreclosure sale conducted by the U.S. Marshal or sheriff in States where a State Supplement provides for sales to be conducted by them.

(3) Sale by trustee in bankruptcy.

(4) Public sale by prior lienholder.

(5) Public sale conducted under the terms of Form FmHA or its successor agency under Public Law 103–354 455–4, "Agreement for Voluntary Liquidation of Chattel Security," the power of sale in security agreements or crop and chattel mortgage, or similar instrument, if authorized by State Supplement.